

Prime Minister
Minister of Finance
Minister of Foreign Affairs
Minister of Defence

EXTENSION OF NEW ZEALAND SPECIAL AIR SERVICE DEPLOYMENT TO AFGHANISTAN (OPERATION WĀTEA)

Proposal

1 This paper proposes that Joint Ministers approve the extension of Operation Wātea in Afghanistan for up to 12 months from April 2011. The deployment would consist of 32 New Zealand Special Air Service (NZSAS) personnel and three New Zealand Defence Force (NZDF) support staff
PSR(S)2, PSR(S)3

Executive Summary

2 Since late September 2009, the NZSAS has been partnering the Afghan Ministry of Interior's counter-terrorism Crisis Response Unit (CRU), conducting direct action tasks against insurgent networks and providing operational support to NZDF elements in Afghanistan (for descriptions of these tasks see paragraph 11, i-iii).

3 The International Security Assistance Force (ISAF) assess that the CRU requires a further 18 to 24 months of dedicated partnering support before it is up to the standard needed to operate independently on a sustainable basis. ISAF has approached New Zealand informally to enquire whether we could continue this activity and we have indicated our consideration of this request.

4 Should Cabinet approve an extension of the NZSAS deployment beyond April 2011 it would: assist the Government of the Islamic Republic of Afghanistan (GIROA) and ISAF in meeting requirements for training support and mentoring to Afghan National Security Forces (ANSF); allow for operational support to all other NZDF elements within Afghanistan; and demonstrate that New Zealand was doing its part to meet the current shortage of military trainers in Afghanistan, thereby enhancing our reputation as a valued and trusted defence partner with NATO, the US, the UK, and Australia.

5 The estimated total cost of extending this deployment for 12 months is \$11.318 million (\$3.215 million 2010/11, \$8.103 million 2011/12). The 2010/11 costs of the Operation Wātea extension can be met from within a revised 2010/2011 appropriation of **PSR(S)2, PSR(S)3** as a result of a **PSR(R)2, PSR(R)3** expense transfer from 2009/10. If permitted, future appropriation transfers from 2010/11 would provide for anticipated costs for Operation Wātea in 2011/12 to be absorbed also.

6 The NZSAS has sufficient manpower resources to sustain a force element **PSR(S)2, PSR(S)3** of up to 35 personnel in Afghanistan and meet concurrent counter-terrorism, Rugby World Cup 2011, and regional security commitments. The NZDF strategic military threat level for Kabul and Afghanistan overall is assessed as **HIGH**¹.

Background

7 Cabinet approved in August 2009 the deployment of up to 71 personnel (including up to 70 NZSAS personnel and associated NZDF support staff **PSR(S)2, PSR(S)3** and associated equipment to Kabul, Afghanistan, for up to 18 months from late September 2009 [CAB Min (09) 28/22].

8 The NZSAS replaced the Norwegian Special Forces Task Group in Kabul and were tasked with training the CRU, conducting direct action tasks against insurgent networks in support of ISAF and GIRoA, and providing operational support to NZDF elements in theatre.

9 ISAF are identifying partnering options for the CRU once Operation Wātea's mandate expires in early April 2011. ISAF assess that the CRU requires a further 18 to 24 months of dedicated partnering support before it is up to the standard needed to operate independently on a sustainable basis. This proposal limits itself to a 12 month extension only.

10 ISAF have approached New Zealand informally to enquire whether the NZSAS could continue in its current role, albeit with reduced numbers. Defence is not aware of ISAF contacting other troop contributing countries, but anticipate that they would do so in February 2011 if New Zealand had not made a decision by that time.

Proposal for Operation Wātea Extension

11 It is proposed that a NZSAS Task Force (TF) of 35 personnel replace our current commitment of 70 personnel in April 2011 for up to 12 months. The smaller TF would operate from the new CRU Camp located 3km north of the Kabul International Airport (with one NZSAS liaison officer deployed to the ISAF Special Operations Forces [SOF] HQ). While the main effort of this smaller force would be providing training support and partnering to the CRU, the TF would also be capable of conducting the following tasks (although not concurrently, as is the present case, due to the smaller size of the force):

- i. Special reconnaissance in Kabul and adjacent provinces, locating insurgent Improvised Explosive Device (IED) networks.

¹ Definition: "There is a significant operational and environmental threat posed to NZDF personnel from multiple sources. NZDF casualties are likely."

PSR(S)2, PSR(S)3

- ii. Direct action tasks against insurgent networks in support of ISAF and the Afghanistan government.
- iii. Providing operational support to New Zealand Provincial Reconstruction Team (NZPRT) operations, VIP protection
PSR(S)2, PSR(S)3

Strategic Considerations

12 An extension of the NZSAS deployment to Afghanistan for a further 12 months would provide the following strategic benefits:

- i. Assist GIRoA and ISAF in meeting their requirements for ongoing training support and mentoring to ANSFs.
- ii. Demonstrate that New Zealand is doing its part to meet the current shortage of military trainers in Afghanistan, thereby enhancing our reputation as a valued and trusted defence partner with NATO, the US, the UK, and Australia.

13 The deployment would also offer the following operational benefits:

- i. Provide an independent option for operational support to all other NZDF elements within Afghanistan should the need arise.
- ii. Link the NZDF into the highest level of co-operation with other nations and ensure better access to *in extremis* support assets, including intelligence, close air and air movement support, medical evacuation, and logistic support.
- iii. Maintain the NZSAS's tier one³ credentials and their international interoperability.

GCSB and NZSIS Contributions

PSR(S)2, PSR(S)3

Details of
GCSB
and
NZSIS
Support

³ Tier one Special Forces are particularly skilful in the covert conduct of special reconnaissance and direct action tasks in hostile, denied or politically sensitive territory. They are able to employ specialised infiltration and exfiltration techniques and are self-sustaining with minimal requirement for logistic support once deployed into the hostile or denied territory.

PSR(S)2, PSR(S)3

Legal Implications

17 As a constituent part of ISAF, Operation Wātea has authority to carry out ISAF tasks identified in this submission pursuant to UN Security Council resolutions 1386 (2001), 1510 (2003), 1833 (2008), 1890 (2009), and 1943 (2010).

18 When conducting ISAF tasks, the NZSAS is covered by the Military Technical Agreement (MTA) between ISAF and GIRoA, and related agreements and arrangements which have been entered into between New Zealand, NATO and the other Member States of ISAF. National tasks are covered by the MTA.

Command and Control

19 As required by the Defence Act, CDF would retain full command of all NZDF personnel posted or attached as part of this deployment. CDF would exercise National Command through the senior NZSAS officer deployed. For the purpose of ISAF operational tasking, operational control authority would be assigned to Commander ISAF Special Operations Forces (COM ISAF SOF) through COM ISAF.

Rules of Engagement

20 The NZDF proposes the rollover of the existing rules of engagement [Cab Min (09) 28/22 refers].

National Caveats

21 The NZDF recommends there be no change to the existing national caveats. They are as follows:

- i. Priority may be placed on New Zealand national tasks as and when required.

- ii. NZDF personnel will not conduct any cross border operations.⁴
- iii. NZDF personnel will not be involved in poppy eradication and CDF approval is required for any counter-narcotics operations.⁵
- iv. **PSR(Sen)1**

22 Under the command of ISAF SOF this deployment would be focused primarily on Kabul and adjacent provinces. It would, however, have a pan-Afghanistan remit to conduct operations in other regional commands as requested by COM ISAF SOF but authorised by CDF.

Handling of Detainees

23 NZDF policy on the handling of detainees has not changed since the NZSAS were deployed in 2009 (see Annex One for further details). Any persons detained during partner-enabled CRU operations would be processed by the CRU and other Afghan authorities in accordance with Afghan law. If NZSAS personnel were to detain any persons they would comply with ISAF standard operating procedures and international law.

Implications for the NZDF

24 The NZSAS has sufficient manpower resources to sustain a force element **PSR(S)2, PSR(S)3** of up to 35 personnel in Afghanistan, whilst meeting all other foreseeable operational demands over the next 12 months (e.g. counter-terrorism, Rugby World Cup 2011 and regional security commitments).

Threat assessment

25 An expanded ISAF footprint, underpinned by the US troop surge, has led to a corresponding increase in the scale of violence, focused predominantly in the south and the east of the country. 2010 is already the most deadly year for coalition troops since operations commenced in 2001. **PSR(S)1**

26 Kabul and the surrounding provinces remain a particular focus of insurgent and criminal activity. Sporadic high profile and sophisticated attacks have targeted embassies, hotels, government ministries, and Afghan and

⁴ In the absence of an internationally recognised border, the Durrand Line will be accepted as the de facto border between Afghanistan and Pakistan for the purposes of this deployment.

⁵ There is a clear link between the Taliban and the narcotics industry. The NZSAS may be requested to undertake specific operations against Taliban or installations involved in the supply or manufacture of narcotics.

ISAF Forces. Kidnapping of wealthy Afghans and westerners by criminal groups continues.

27 The transfer of lead security responsibility in Kabul to ANSF in August 2008 does not appear to have had an adverse impact on local security conditions. This has been demonstrated by the high profile events that have been held in Kabul in the past 12 months without serious incident, including Presidential Elections, the Consultative Peace Jirga, and the Kabul Conference. The last "spectacular attack"⁶ within Kabul was on a guest house used by foreigners on 26 February 2010. The CRU, with support from NZSAS, provided a well coordinated and effective response to the attack. ISAF continues to provide significant support to Afghan forces, maintaining a robust and visible presence in Kabul.

28 The NZDF strategic military threat level for Kabul and Afghanistan overall is assessed as **HIGH**.

Financial implications

Vote Defence Force

29 The estimated costs of extending Operation Wātea are \$11.318 million for 12 months (\$3.215 million 2010/11, \$8.103 million 2011/12), \$16.316 million for 18 months, and \$21.713 million for 24 months.

30 As a result of Cabinet's decision to transfer an underspend from 2009/10 [CAB Min (10) 23/8 refers], the 2010/11 appropriations available for all Operationally Deployed Forces activities have been increased by ^{PSR(S)2, PSR(S)3} (to ^{PSR(S)2, PSR(S)3}) through the 2010 October Baseline Update (OBU).

31 The 2010/11 costs of the Operation Wātea extension can be met from within the revised 2010/2011 appropriation. If permitted, future appropriation transfers from 2010/11 would also provide for anticipated costs for Operation Wātea in 2011/12 to be absorbed. A final transfer value will be identified and proposed as part of the Budget 2011 process.

32 Potential funding required beyond 12 months cannot be judged at this stage. It would be considered as part of advice to Ministers on the future NZSAS footprint in due course.

Vote GCSB

33 If the extension of Operation Wātea is approved, officials propose to extend GCSB intelligence support through the 12 month deployment from April 2011. The forecast costs, including capital and operating expenses will total ^{PSR(S)2, PSR(S)3} from 2010/11 to 2015/16. The following table provides a breakdown of these costs:

⁶ ISAF term to describe a complex attack resulting in mass casualties and generating a high level of media coverage.

Cost Category	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16 & out years
	\$M	\$M	\$M	\$M	\$M	\$M
Operating (with Crown impact)	PSR(S)2, PSR(S)3					
Capital (with Crown impact)						
Depreciation (without Crown impact)						
Total GCSB costs						

34 **PSR(S)2, PSR(S)3**

Human rights, legislative, regulatory impact compliance cost, disability and gender implications

35 There are no relevant implications.

Consultation

36 This submission was prepared by the Ministry of Defence (MoD) and the NZDF, in consultation with GCSB, NZSIS, MFAT, Treasury and the Department of the Prime Minister and Cabinet (DPMC).

Publicity

37 It is proposed that a short statement be issued by the Prime Minister at an appropriate time.

Recommendations

38 It is recommended Cabinet:

1 **Note** that on 10 August 2009 Cabinet approved the deployment of up to 71 personnel (including up to 70 New Zealand Special Air Service (NZSAS) personnel and associated New Zealand Defence Force (NZDF) support staff **PSR(S)2, PSR(S)3**

and associated equipment to Kabul, Afghanistan, for up to 18 months from late September 2009 [CAB Min (09) 28/22];

2 **Note** that the NZSAS has been partnering the Afghan Ministry of Interior's counter-terrorism Crisis Response Unit (CRU), conducting

direct action tasks against insurgent networks, and providing operational support to NZDF elements in Afghanistan;

3 **Note** that ISAF assess the CRU requires a further 18 to 24 months of dedicated partnering support before it is up to the standard needed to operate independently on a sustainable basis, and that ISAF have enquired informally whether New Zealand could continue its support;

4 **Note** that the proposed 12 month extension of the NZSAS deployment would:

- a. assist the Afghan Government and ISAF in meeting their requirements for ongoing training support and mentoring to Afghan National Security Forces;
- b. allow for operational support to all other NZDF elements within Afghanistan, as well as VIP protection **PSR(S)2, PSR(S)3**
- c. enhance the reputation of New Zealand as a valued and trusted defence partner with NATO, the US, the UK, and Australia.

5 **Note** that NZDF policy on the handling of detainees has not changed: any persons arrested during partner-enabled CRU operations would be processed by the CRU and other Afghan authorities in accordance with Afghan law, and if NZSAS personnel were to detain any persons they would comply with standard ISAF operating procedures and international law;

6 **Note** that the NZSAS has sufficient manpower resources to sustain a force element **PSR(S)2, PSR(S)3** of up to 35 personnel in Afghanistan and meet concurrent counter-terrorism, Rugby World Cup 2011, and regional security commitments;

7 **Note** that the NZDF strategic military threat level for Kabul and Afghanistan overall is assessed as **HIGH**;

8 **Agree** to the extension of Operation Wātea in Afghanistan for up to 12 months from April 2011, including 32 NZSAS personnel and three NZDF support staff **PSR(S)2, PSR(S)3**

9 **Note** that the Vote Defence Force costs, agreed at recommendation 8, of extending Operation Wātea are \$11.318 million (\$3.215 million 2010/11, \$8.103 million 2011/12);

10 **Note** that the Vote Defence Force costs falling in 2010/11 will be absorbed as a result of appropriation transfers from 2009/10, and that, if permitted, future appropriation transfers from 2010/11 would provide for anticipated costs for Operation Wātea in 2011/12 to be absorbed;

SECRET
~~NZ EYES ONLY~~

11 **Agree** to appropriate an additional **PSR(S)2, PSR(S)3** Vote Communications Security and Intelligence, comprising **PSR(S)2, PSR(S)3** for financial year 2010/11, **PSR(S)2, PSR(S)3** for financial year 2011/12 and **PSR(S)2, PSR(S)3** for financial year 2012/13 and outyears;

12 **Approve** the following changes to appropriations in Vote Communications Security and Intelligence, for the continual provision of intelligence support by GCSB to deployed NZDF elements with a corresponding impact on the operating balance and debt;

	\$M Increase/(decrease)						
	\$M	\$M	\$M	\$M	\$M	\$M	\$M
	10/11	11/12	12/13	13/14	14/15	15/16	16/17 & outyears
Vote Communications Security and Intelligence	PSR(S)2, PSR(S)3						
Minister responsible for the Government Security Bureau							
Intelligence and Security Department Expenses and Capital Expenditure:							
(Funded by revenue Crown)							
(Funded by Capital Injection)							
Total Operating							
Total Capital							
Total Vote: Communications Security and Intelligence							

13 **Note** that **PSR(S)2, PSR(S)3** of the increase in appropriation in financial years 2011/12 – 2015/16 is to cover **PSR(S)2, PSR(S)3** in appropriation in 2010/11, approved in recommendation 14 above;

14 **Agree**, **PSR(S)2, PSR(S)3** in each of the financial years 2011/12 – 2015/16; and

15 **Agree** that the changes to appropriations for 2010/11 above be included in 2010/11 Supplementary Estimates and that, in the interim, the increases be met from Imprest Supply.

J.W. MCKINNON
Secretary of Defence

R. R. JONES
Lieutenant General
Chief of Defence Force

Date:

Date:

Hon Dr Wayne Mapp
Minister of Defence

Hon Murray McCully
Minister of Foreign Affairs

Approved / Not Approved

Approved / Not Approved

Date:

Date:

Hon Bill English
Minister of Finance

Rt Hon John Key
Prime Minister

Approved / Not Approved

Approved / Not Approved

Date:

Date:

**Annex One: DETAINEE MONITORING IN AFGHANISTAN
NEW ZEALAND APPROACH**

Under the applicable New Zealand Rules of Engagement, the NZSAS will only detain an individual if there is no member of the CRU or ANSF present to do so, and the person constitutes an imminent threat or is interfering with the mission. To date the NZSAS has not independently detained any individuals. The NZDF does not therefore currently monitor the treatment of any individuals held in detention facilities run by the Afghan authorities.

In the event that members of the NZSAS detain persons in Afghanistan, NZDF detainee handling procedures require that the person detained be treated humanely and in accordance with applicable international law, including the Geneva Conventions. Persons detained by the NZSAS may not be transferred to an Afghan authority without the permission of the CDF. If any detainees are transferred to an Afghan authority, detainee monitoring will be undertaken in accordance with applicable international humanitarian / human rights law standards.

Details of any detainees taken by the NZSAS will also be provided to the International Committee of the Red Cross and the Afghan Independent Human Rights Committee. The New Zealand Government has reserved the right to have access to and monitor any detainee it does transfer to the Afghan authorities, who have provided assurances that they would treat detainees in accordance with their obligations under international law.

These undertakings have been specifically provided for in the Agreement on Transfer of Detainees (ATD) executed between the Government of New Zealand and the Government of the Islamic Republic of Afghanistan (GIROA). Further assurances were received from GIROA during the visit by the Minister of Defence to Afghanistan in August 2010, particularly in relation to the improvement of standards within National Directorate of Security detention facilities.

In the event of the NZSAS becoming aware of any evidence of detainee mistreatment by the ANSF, the NZSAS will be required to report in the first instance to CDF immediately and the matter raised with GIROA as appropriate. If effective measures are not taken to rectify the problem this may require a cessation, on a temporary or permanent basis, of operations with the ANSF.

